

IN THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

UNITED STATES OF AMERICA :
 :
v. : Criminal No.: 3:22-cr-00101
 :
MICHAEL RAFAEL BERKLEY, :

MOTION FOR SUBSTITUTION OF COUNSEL

COMES NOW the Defendant, Michael Berkley, by counsel, and moves this Honorable Court to substitute Vaughan C. Jones, Esquire in the stead of Darrius Holloway, Esquire, as counsel of record with reference to the above-styled matter. In support of this Motion, Defendant states the following:

1. On July 20, 2022, this Court appointed Darius Holloway, to represent the Defendant in the above styled case. Ms. Holloway represented Mr. Berkley at arraignment and a detention hearing on July 25, 2022.
2. Criminal defendants have a Sixth Amendment right to, “be afforded a reasonable opportunity to secure counsel of his own choosing.” United States v. Gallop, 838 F.2d 105, 107 (4th Cir.1988). When a defendant’s relationship with his attorney has broken down to the point where the lack of adequate communication impacts the ability to conduct an adequate defense, the defendant’s Sixth Amendment right is implicated. United States v. Johnson, 114 F.3d 435, 443 (4th Cir.1997). In those situations, the initial representation has ceased to constitute Sixth Amendment assistance of counsel. Id.
3. Where a defendant’s communication with an attorney has so frayed to the point that, “mounting of an adequate defense becomes impossible...the defendant is neither “being heard by counsel” nor receiving “the Assistance of Counsel for his defense.” Id., at 589. Accordingly, a defendant’s right to assistance of counsel is not satisfied merely by the presence of a competent attorney. (See United States ex rel Thomas v. O’Leary, 856 F.2d 1011, 1015 (7th Cir.1988) stating “The Sixth Amendment right to counsel, of course, guarantees more than just a warm body to stand next to the accused during critical stages of the proceedings....”) The attorney and the client must be able to work together.

When a criminal defendant has, with legitimate reason, completely lost trust in her attorney...the defendant is constructively denied counsel. Daniels v. Woodford, 428 F.3d 1181 (9th Cir.2005)

4. Subsequent to the July 25, 2022, hearing, Mr. Berkley has expressed a loss of confidence in his ability to work effectively with Mr. Holloway.
5. On September 4, 2022, Michael Rafael Berkley retained Vaughan C. Jones, a member in good standing of this court, to represent him in the above styled criminal matter. Mr. Berkley desires to have Vaughan C. Jones, Esquire represent his continued interest in this case. Vaughan Jones has discussed this issue with Ms. Holloway;
6. Accordingly, the Defendant hereby requests that Vaughan C. Jones, Esquire be substituted in the stead of Darrius Holloway, Esquire;

WHEREFORE, for the reasons set out above, the Defendant respectfully moves this Court to grant this motion and note Vaughan C. Jones, Esquire as the Defendant's attorney of record.

Respectfully submitted,
MICHAEL RAFAEL BERKLEY

By: /s/
Counsel

By /s/
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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of September, I electronically filed the foregoing with the clerk of court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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